

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

PATRICK D. LEGGETT,  
KATHERINE F. LEGGETT,  
GEORGE D. McKAIN,  
by his attorney in fact,  
ANITA KATHRYN McKAIN GREER,  
And ADELE S. McDUGAL,

Plaintiffs,

v.

Civil Action No. 1:13-CV-4

EQT PRODUCTION COMPANY,  
A Pennsylvania corporation;  
EQT CORPORATION,  
a Pennsylvania corporation,  
EQT ENERGY, LLC,  
A Delaware limited liability company,  
EQT INVESTMENTS HOLDINGS, LLC,  
a Delaware limited liability company,  
EQT GATHERING, LLC,  
a Delaware limited liability company,  
and EQT MIDSTREAM PARTNERS, LP,  
a Delaware limited partnership,

Defendants.

**ORDER CONFIRMING PRONOUNCED ORDER OF THE COURT DENYING  
MOTION FOR PROTECTIVE ORDER AND MOTION TO QUASH, SETTING  
DEPOSITIONS FOR MR. SCHLOTTERBECK AND MR. PORGES, DIRECTING  
FILING OF REASONABLE EXPENSES, AND SETTING AN OPPORTUNITY TO BE  
HEARD FOR ALL DEFENDANTS AND ALL COUNSEL OF RECORD FOR ALL  
DEFENDANTS**

**I. INTRODUCTION**

On August 9, 2018 came the parties in the above titled action for an evidentiary hearing and argument on Defendant EQT Corporation's [ECF No. 244] Motion for Protective Order and Motion to Quash. The Plaintiffs appeared by Marvin W. Master, Esq., Michael W. Carey, Esq.,

and Robert E. Douglas, Esq. The Defendants appeared by John K. West, Esq. and David K. Hendrickson, Esq. No testimony was offered by either party. Three exhibits, two transcripts of depositions of John Bergonzi and one transcript of the deposition of Nicole King were admitted for the Defendants. Plaintiffs' one exhibit, a 30(b)(6) deposition notice, was admitted.

## **II. FINDINGS OF FACT**

On July 24, 2018, Counsel for Plaintiffs filed notices of video depositions of David L. Porges on August 6, 2018 at 9:00 a.m., and Steven T. Schlotterbeck on August 7, 2018 at 9:00 a.m. ECF Nos. 530 and 531.

On August 6, 2018 at 2:46 p.m., five hours and forty-six minutes after the time set for the video deposition of Mr. Porges, Defendant EQT Corporation filed the Motion for Protective Order and Motion to Quash referenced above.

EQT Corporation is not a multi-national corporation to which the apex doctrine applies.

Even if EQT Corporation were a corporation to which the apex doctrine applies, the apex doctrine does not apply to the scheduled depositions of these two officers because they are in complete and total control of the subsidiaries. ECF No. 400. The district court has previously found in the 1:13-CV-151 action that Defendants or their Counsel have obfuscated or lied. ECF No. 377 at 9-10. Defendants and their Counsel have no credibility with this Court.

Defendants offered no evidence on the issues of proportionality and undue burden, which they claim are the controlling issues for their Motions.

## **III. CONCLUSIONS OF LAW**

The Motion for Protective Order and Motion to Quash are without merit in fact or law.

## **IV. DECISIONS**

1. The Defendant's [ECF No. 244] Motion for Protective Order and Motion to Quash are hereby **DENIED**.
2. Unless all parties and counsel agree otherwise as to time and place, and file a pleading by 3:00 p.m. on Friday, August 10, 2018, the deposition of Mr. Porges will begin Monday, August 13, 2018, at 8:30 a.m. in the jury room of the Magistrate Judge Courtroom, or in the Magistrate Judge Courtroom, Fourth Floor, United States Courthouse, 1125 Chapline Street, Wheeling, West Virginia; with the only breaks being 10:30 to 10:45 a.m., 12:45 to 1:45 p.m., and 3:45 to 4:00 p.m. The deposition will conclude at 5:00 p.m.
3. The deposition of Mr. Schlotterbeck will begin Tuesday, August 14, 2018, at the same place and on the same schedule as outlined in paragraph 2 unless an agreement is reached and a pleading is filed that comports with paragraph 2.
4. Counsel for Plaintiff shall file an affidavit of reasonable expenses in defending these two motions on or before August 16, 2018.
5. Mr. Porges, Mr. Schlotterbeck, all Counsel of record for all Defendants, and the Chief Executive Officers of Hendrickson & Long, PLLC and Steptoe & Johnson, PLLC shall be given an opportunity to be heard on why reasonable expenses AND SANCTIONS should not be awarded. This hearing will be held at 10:00 a.m. on Wednesday, August 22, 2018, in the United States Magistrate Judge Courtroom located at 1125 Chapline Street, Wheeling, West Virginia.
6. THE FILING OF OBJECTIONS DOES NOT STAY THIS ORDER.

Any party may, within fourteen days of this Order, file with the Clerk of the Court written objections identifying the portions of the Order to which objection is made, and the basis

for such objection. A copy of such objections should also be submitted to the District Court Judge of Record. Failure to timely file objections to the Order set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Order. The filing of objections does not stay this Order.

The Clerk of the Court is directed to provide a copy of the Order to parties who appear *pro se* and all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

**IT IS SO ORDERED**

Dated: August 9, 2018

/s/ James E. Seibert

JAMES E. SEIBERT

UNITED STATES MAGISTRATE JUDGE